

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JAMES MCCRAY,
Plaintiff,

v.

DELAWARE COUNTY, *et al.*,
Defendants.

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CIVIL ACTION NO. 24-CV-1077

ORDER

AND NOW, this 20th day of May, 2024, upon consideration of Plaintiff James McCray's Motion to Proceed *In Forma Pauperis* (ECF No. 1), institutional account statement (ECF No. 7), and *pro se* Complaint (ECF No. 2) it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. James McCray, #842645, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of the Philadelphia Industrial Correctional Center or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to McCray's inmate account; or (b) the average monthly balance in McCray's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in McCray's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to McCray's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Warden of the Philadelphia Industrial Correctional Center.
4. The Complaint is **DEEMED** filed.
5. The Complaint is **DISMISSED** for the reasons in the Court's Memorandum as follows:
 - a. Mr. McCray's federal claims brought pursuant to 42 U.S.C. § 1983 are **DISMISSED WITH PREJUDICE** as time barred; and
 - b. Mr. McCray's state law claims are **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction.
6. The Clerk of Court shall **CLOSE** this case.

BY THE COURT:

/s/ Gerald Austin McHugh

GERALD A. McHUGH, J.